

SCHOOL FACILITIES BOARD

Adopted: June 14, 1999

Modified: April 3, 2008

TERMS AND CONDITIONS FOR ACCEPTANCE OF MONIES FROM THE NEW SCHOOL FACILITIES FUND FOR LAND PURCHASES

Name of Applicant District:

Project Title:

Project Number:

These Terms and Conditions apply to the distribution of monies to the applicant school district ("Applicant") for land purchase that the State of Arizona School Facilities Board (Board) has approved as an appropriate school site as required pursuant to the New School Facilities Fund ("Fund"), Arizona Revised Statutes ("A.R.S.") § 15-2041(F). The Board is required to distribute monies needed for new schools so that land can be purchased at a price that is less than or equal to fair market value and in advance of the construction of the new school. A.R.S. §15-2041(F).

1. The Applicant will accept monies from the Fund in accordance with all applicable state statutes and rules, and will expend the funds in compliance with all provisions of such statutes and rules, including the following:

- a. Use of fiscal control and fund accounting procedures as prescribed in the Uniform System of Financial Records, which will insure proper disbursement of, and accounting for, monies paid to the Applicant from the Fund.
- b. Compliance with the procurement rules adopted by the State Board of Education.
- c. Compliance with any applicable federal, state and local health or safety requirements.

2. The person signing these Terms and Conditions on behalf of the Applicant certifies that he or she has read these Terms and Conditions and represents and warrants that he or she is duly authorized to agree and accept and therefore sign these Terms and Conditions on behalf of the Applicant.

3. The Applicant will make reports to the Board as requested, and will cooperate with any evaluation by the Board.

4. The Applicant will maintain records as required by the Uniform System of Financial Records and provide access to those records by the Board as necessary to perform its duties. The Applicant will cooperate with the Board or the Auditor General or any of their authorized representatives in the conduct of audits authorized by law. This cooperation includes access without unreasonable restrictions to its records and personnel for the purpose of obtaining relevant information.

5. Any application, report or plan relating to the funded land purchase in the possession of the Applicant, its agents or designees is deemed a public record under state law. However, the

Board may deem certain records or documents confidential if the disclosure of such records or documents would be detrimental to the best interests of the Board and/or the State of Arizona.

6. All interest earned on monies in the district's Fund 695 (New School Facilities Fund) associated with the land purchase must be apportioned to each separate land purchase and returned to the Board once the Applicant takes title to the land.

7. If the final cost of the land purchase is less than the estimate used to determine the amount distributed from the Fund, the savings will be reverted to the Fund.

8. If monies are distributed to the Applicant to verify, gather and submit required information based on an estimated cost, an adjustment for the actual cost will be made.

9. The Applicant understands that the appraisal obtained to determine the fair market value as required by A.R.S. § 15-2041(F) will be completed by an MAI appraiser selected by the staff of the Board and that the appraiser will be paid directly by the Board. The Applicant further understands that it will not receive any monies from the Board to pay for appraisals of the land.

10. A land purchase is considered to be abandoned if it has not been successfully completed within three years. In such an instance, any remaining unspent monies received from the Board must be returned to the Board.

11. Fund monies may only be spent for the project as approved by the Board. The Board will approve the fair market value at the same time it provides final approval for the land purchase. The Board must approve any changes that may affect its determination of the suitability of the land purchase for use as a school site.

12. The land for which the Applicant received monies from the Fund for the Donation Value shall be titled in the name of the Applicant. If the Applicant sells or otherwise disposes of the land, the Applicant must follow all applicable statutory and regulatory requirements. The proceeds derived through the sale of any land purchased or partially purchased with monies received from the Fund shall be returned to the Fund on a proportional basis pursuant to A.R.S. § 15-2041(F).

13. Equal Opportunity/Non-Discrimination. The Parties shall comply with Executive Order 75-5 as modified by Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities and all other applicable State and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act, The Parties shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

14. Records. Pursuant to A.R.S. § 35-214, the Applicant shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to these Terms and Conditions for a period of five years after acquisition of the land. All records shall be subject to inspection and audit by the State of Arizona for five years after the termination of this agreement.

15. Conflict of Interest. Pursuant to A.R.S. § 38-511, the State of Arizona ("State"), its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the State, its

political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other Party to the contract in any capacity or a consultant to any other Party of the contract with respect to the subject matter of the contract. A cancellation made pursuant to this provision shall be effective when the Applicant receives written notice of the cancellation unless the notice specifies a later time.

16. Non-Availability of Funds. Every payment obligation of the State of Arizona ("State") under this Terms and Conditions is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of the Fund, this Terms and Conditions may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

17. Arbitration. The Parties to this Contract agree to resolve all disputes arising out of or relating to the Terms and Conditions through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes.

18. Federal Immigration Laws Compliance. Required by Arizona Executive Order 2005-30 in "all applicable state contracts." The Executive Order requires: "1) each state contractor warrant that is in compliance with all federal immigration laws and regulations; 2) all subcontractors to the contractor execute similar warranties; 3) the breach of any such warranty shall be deemed a material breach of the applicable contract, subject to monetary penalties or other penalties up to and including termination of the contract; and 4) the state agency shall retain the legal right to inspect the papers of any employee who works on the contract to ensure that the employer is in compliance with it[s] warranties." Executive Order 2005-30(2).

19. Third Party Anti-Trust Violation. The applicant assigns to the State of Arizona any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to the Applicant toward fulfillment of this agreement.

Signature

Date

Title

Name (typed)